

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

UNIVERSAL LIFE CHURCH MONASTERY
STOREHOUSE, a Washington non-profit
corporation,

Plaintiff,

v.

MAURICE KING; LEWIS KING; GLEN
YOSHIOKA; DYLAN WALL; SARA WHITE;
and AMERICAN MARRIAGE MINISTRIES, a
Washington non-profit corporation,

Defendants.

AMERICAN MARRIAGE MINISTRIES, a

Counter-Claimant and
Third-Party Plaintiff,

v.

UNIVERSAL LIFE CHURCH MONASTERY
STOREHOUSE; UNIVERSAL LIFE CHURCH
MONASTERY STOREHOUSE, INC.,

Counter-Defendant and
Third-Party Defendants.

Case No. 2:19-cv-00301-RSL

**STIPULATED MOTION AND
PROTECTIVE ORDER**

**NOTE ON MOTION CALENDAR:
JUNE 17, 2019**

1 1. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential, proprietary, or
3 private information for which special protection may be warranted. Accordingly, the parties
4 hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The
5 parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket
6 protection on all disclosures or responses to discovery, the protection it affords from public
7 disclosure and use extends only to the limited information or items that are entitled to
8 confidential treatment under the applicable legal principles, and it does not presumptively entitle
9 parties to file confidential information under seal.

10 2. “CONFIDENTIAL” MATERIAL

11 “Confidential” material shall include the following documents and tangible things
12 produced or otherwise exchanged: (1) lists or other documents comprising names or contact
13 information of current or former ministers, customers, or other recipients of a party’s goods or
14 services; (2) lists or other documents comprising names or contact information of suppliers or
15 vendors; (3) non-public contracts or agreements, (4) trade secret information as defined in the
16 Uniform Trade Secrets Act, chapter 19.108 RCW; (5) non-public research and development,
17 financial, technical, marketing, web traffic, pricing, and revenue information; and (6) information
18 specifically identified as confidential or proprietary in agreements or other contemporaneous
19 documents referring to such information.

20 3. SCOPE

21 The protections conferred by this agreement cover not only confidential material (as
22 defined above), but also (1) any information copied or extracted from confidential material; (2)
23 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
24 conversations, or presentations by parties or their counsel that might reveal confidential material.

25 However, the protections conferred by this agreement do not cover information that is in
26 the public domain or becomes part of the public domain through trial or otherwise.

1 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
3 or produced by another party or by a non-party in connection with this case only for prosecuting,
4 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
5 the categories of persons and under the conditions described in this agreement. Confidential
6 material must be stored and maintained by a receiving party at a location and in a secure manner
7 that ensures that access is limited to the persons authorized under this agreement.

8 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
9 ordered by the court or permitted in writing by the designating party, a receiving party may
10 disclose any confidential material only to:

11 (a) the receiving party’s counsel of record in this action, as well as employees
12 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

13 (b) the officers, directors, and employees (including in house counsel) of the
14 receiving party to whom disclosure is reasonably necessary for this litigation, unless a particular
15 document or material produced is for Attorneys’ Eyes Only and is so designated;

16 (c) experts and consultants to whom disclosure is reasonably necessary for
17 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
18 A);

19 (d) the court, court personnel, and court reporters and their staff;

20 (e) copy or imaging services retained by counsel to assist in the duplication of
21 confidential material, provided that counsel for the party retaining the copy or imaging service
22 instructs the service not to disclose any confidential material to third parties and to immediately
23 return all originals and copies of any confidential material;

24 (f) during their depositions, witnesses in the action to whom disclosure is
25 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
26 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of

1 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
2 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
3 under this agreement;

4 (g) the author or recipient of a document containing the information or a
5 custodian or other person who otherwise possessed or knew the information.

6 4.3 “ATTORNEYS’ EYES ONLY” Material. Any party may designate certain
7 confidential material as “Attorneys’ Eyes Only” if that party deems that the disclosure of such
8 material to a party or in-house counsel, officers, directors, managers, and/or employees of a party is
9 deemed to create a substantial risk of serious harm that could not be avoided by less restrictive
10 means. Confidential material marked “Attorneys’ Eyes Only” shall not be disclosed to or used by
11 anyone except outside counsel of record for a party and the persons listed in paragraphs 4.2 (c), (d),
12 (e) and (g). “Attorneys’ Eyes Only” material may also be disclosed to additional persons by
13 agreement of the parties or by order of the Court.

14 4.4 Filing Confidential Material. Before filing confidential material or discussing or
15 referencing such material in court filings, the filing party shall confer with the designating party,
16 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
17 remove the confidential designation, whether the document can be redacted, or whether a motion
18 to seal or stipulation and proposed order is warranted. During the meet and confer process, the
19 designating party must identify the basis for sealing the specific confidential information at issue,
20 and the filing party shall include this basis in its motion to seal, along with any objection to
21 sealing the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be
22 followed and the standards that will be applied when a party seeks permission from the court to
23 file material under seal. A party who seeks to maintain the confidentiality of its information
24 must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the
25 motion to seal. Failure to satisfy this requirement will result in the motion to seal being denied,
26 in accordance with the strong presumption of public access to the Court’s files.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
3 or non-party that designates information or items for protection under this agreement must take
4 care to limit any such designation to specific material that qualifies under the appropriate
5 standards. The designating party must designate for protection only those parts of material,
6 documents, items, or oral or written communications that qualify, so that other portions of the
7 material, documents, items, or communications for which protection is not warranted are not
8 swept unjustifiably within the ambit of this agreement.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
10 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
11 unnecessarily encumber or delay the case development process or to impose unnecessary
12 expenses and burdens on other parties) expose the designating party to sanctions.

13 If it comes to a designating party's attention that information or items that it designated
14 for protection do not qualify for protection, the designating party must promptly notify all other
15 parties that it is withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
17 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
18 ordered, disclosure or discovery material that qualifies for protection under this agreement must
19 be clearly so designated before or when the material is disclosed or produced.

20 (a) Information in documentary form: (*e.g.*, paper or electronic documents
21 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), the designating party must affix the word "CONFIDENTIAL" and/or
23 "ATTORNEYS' EYES ONLY" to each page that contains confidential material. If only a
24 portion or portions of the material on a page qualifies for protection, the producing party also
25 must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the
26 margins).

1 (b) Testimony given in deposition or in other pretrial proceedings: the parties
2 and any participating non-parties must identify on the record, during the deposition or other
3 pretrial proceeding, all protected testimony, without prejudice to their right to so designate other
4 testimony after reviewing the transcript. Any party or non-party may, within fifteen days after
5 receiving the transcript of the deposition or other pretrial proceeding, designate portions of the
6 transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect
7 confidential information at trial, the issue should be addressed during the pre-trial conference.

8 (c) Other tangible items: the producing party must affix in a prominent place
9 on the exterior of the container or containers in which the information or item is stored the word
10 “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY.” If only a portion or portions of the
11 information or item warrant protection, the producing party, to the extent practicable, shall
12 identify the protected portion(s).

13 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
14 designate qualified information or items does not, standing alone, waive the designating party’s
15 right to secure protection under this agreement for such material. Upon timely correction of a
16 designation, the receiving party must make reasonable efforts to ensure that the material is
17 treated in accordance with the provisions of this agreement.

18 6. NON-PARTY DISCOVERY

19 6.1 Designation and Treatment of Material Produced by Non-Parties. If a party
20 receives documents, things, testimony, information, or other material from a non-party in
21 response to a subpoena issued under Fed. R. Civ. P. 45, the receiving party must provide a copy
22 of such material to the other parties. Any producing non-party shall have the right to designate
23 such material as “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY” before production
24 and shall be given a copy of this Protective Order upon service of any subpoena issued under
25 Fed. R. Civ. P. 45. If such material produced by a non-party relates to the business,
26 correspondence, or other actions of a party, the party to whom the materials relate shall have

1 fourteen (14) days from receipt of the materials to designate such material as
2 “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY.” If a party marks material produced
3 by a non-party as “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY” where the
4 producing non-party has not so designated the materials, and any dispute arises over whether the
5 materials are protectable, the marking party has the burden of proving that a duty of
6 confidentiality or similar duty warrants marking the materials produced by the non-party as
7 “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY.”

8 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 7.1 Timing of Challenges. Any party or non-party may challenge a designation of
10 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
11 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
12 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
13 challenge a confidentiality designation by electing not to mount a challenge promptly after the
14 original designation is disclosed.

15 7.2 Meet and Confer. The parties must make every attempt to resolve any dispute
16 regarding confidential designations without court involvement. Any motion regarding
17 confidential designations or for a protective order must include a certification, in the motion or in
18 a declaration or affidavit, that the movant has engaged in a good faith meet and confer
19 conference with other affected parties in an effort to resolve the dispute without court action. The
20 certification must list the date, manner, and participants to the conference. A good faith effort to
21 confer requires a face-to-face meeting or a telephone conference.

22 7.3 Judicial Intervention. If the parties cannot resolve a challenge without court
23 intervention, the designating party may file and serve a motion to retain confidentiality under
24 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
25 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
26 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on

other parties) may expose the challenging party to sanctions. All parties shall continue to maintain the material in question as confidential until the court rules on the challenge.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL” and/or “ATTORNEYS’ EYES ONLY” that party must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

10.1 When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the

1 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
2 provision is not intended to modify whatever procedure may be established in an e-discovery
3 order or agreement that provides for production without prior privilege review. The parties agree
4 to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein. The entry of
5 this Protective Order by the Court constitutes a court order under Rule 502(d) of the Federal
6 Rules of Evidence. Nothing herein shall prevent a party from challenging the propriety of the
7 attorney-client privilege or work-product immunity or other applicable privilege or immunity
8 designation by submitting a written challenge to the Court.

9 10.2 The inadvertent production of privileged or work-product protected documents,
10 electronically stored information (“ESI”), or information is not a waiver of, nor prejudice to, any
11 privilege or protection from discovery, including, without limitation, the work product doctrine,
12 attorney-client privilege, and/or joint defense privilege, in this case or in any other federal or
13 state proceeding. This Order shall be interpreted to provide the maximum protection allowed in
14 cases of such inadvertent production by Federal Rule of Evidence 502(d).

15 10.3 Nothing contained herein is intended to or shall serve to limit a party’s right to
16 conduct a review of documents, ESI, or information (including metadata) for relevance,
17 responsiveness and/or segregation of privileged and/or protected information before production.
18 Employing electronic keyword searching to identify and prevent disclosure of privileged
19 material constitutes “reasonable steps to prevent disclosure” under Rule 502(b)(2) of the Federal
20 Rules of Evidence.

21 11. NON TERMINATION AND RETURN OF DOCUMENTS

22 Within 60 days after the termination of this action, including all appeals, each receiving
23 party must return all confidential material to the producing party, including all copies, extracts
24 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
25 destruction.
26

1 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
2 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
3 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
4 work product, even if such materials contain confidential material.

5 The confidentiality obligations imposed by this agreement shall remain in effect until a
6 designating party agrees otherwise in writing or a court orders otherwise.

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8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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10 DATED: June 17, 2019

/s/ Michael P. Matesky, II
Michael P. Matesky, II (WSBA No. 39586)
Matesky Law PLLC
1001 4th Ave., Suite 3200
Seattle, WA 98154
Ph: 206.701.0331
Fax: 206.701.0332
Email: mike@mateskylaw.com;
litigation@mateskylaw.com

Michael B. Galletch, (WSBA No. 29612)
411 University Street, Suite 1200
Seattle, WA 98101-2519
Ph: (206) 898-8040
Email: mike@psbizlit.com

Attorneys for Plaintiff

18
19 DATED: June 17, 2019

/s/ Kelly A. Mennemeier
Nancy V. Stephens, WSBA #31510
Benjamin Hodges, WSBA #49301
Kelly A. Mennemeier, WSBA #51838
FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3000
Seattle, Washington 98101-3292
Telephone: (206) 447-4400
Facsimile: (206) 447-9700
Email: nancy.stephens@foster.com
Email: ben.hodges@foster.com
Email: kelly.mennemeier@foster.com


Attorneys for Defendant

1 **ORDER**

2 PURSUANT TO STIPULATION, IT IS SO ORDERED

3 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
4 documents in this proceeding shall not, for the purposes of this proceeding or any other federal
5 or state proceeding, constitute a waiver by the producing party of any privilege applicable to
6 those documents, including the attorney-client privilege, attorney work-product protection, or
7 any other privilege or protection recognized by law.

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9 Dated this 19th day of June, 2019.
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12 Robert S. Lasnik
13 United States District Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of
5 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Western District of Washington on [date] in the
7 case of *Universal Life Church Monastery Storehouse v. King, et. al.*, Case No. 2:19-cv-00301-
8 RSL. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order
9 and I understand and acknowledge that failure to so comply could expose me to sanctions and
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
11 any information or item that is subject to this Stipulated Protective Order to any person or entity
12 except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Western District of Washington for the purpose of enforcing the terms of this Stipulated
15 Protective Order, even if such enforcement proceedings occur after termination of this action.

16 Date: _____

17 City and State where sworn and signed: _____

18 Printed name: _____

19 Signature: _____